

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Earl Dale Durham,

Plaintiff,

v.

Case No. 1:07cv450

Commissioner of Social Security,

Judge Michael R. Barrett

Defendant.

ORDER

This matter is before the Court on the Report and Recommendation filed by the Magistrate Judge on July 23, 2008 (Doc. 12).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation in a timely manner. See United States v. Walters, 638 F.2d 947 (6th Cir. 1981). No objections to the Magistrate Judge's Report and Recommendation have been filed.

Having reviewed this matter de novo pursuant to 28 U.S.C. 636, this Court find the Magistrate Judge's Report and Recommendation to be correct.

Accordingly, it is **ORDERED** that the Report and Recommendation of the Magistrate Judge is hereby **ADOPTED**. The decision by the Commissioner is found not to be supported by substantial evidence and is hereby **REVERSED**. This matter is **REMANDED** to the ALJ for an immediate award of benefits. This matter is closed.

IT IS SO ORDERED.

S/Michael R. Barrett
Michael R. Barrett, Judge
United States District Court